

Remarks

Applicants think Examiner KRISHNAN and SPE JIANG for their time and consideration of the above-identified application during the interview with the undersigned.

During the interview, applicants explained how formulas I and II set forth in the claims relate to each other. In addition, Applicants suggested ways in which to amend the claims to overcome the enablement rejection, double patenting rejection and prior art rejections. Applicants also argued for the patentability of the claimed invention in view of the cited prior art. An agreement with respect to the claims was not reached.

Claims 32-53 are pending in the application. Support for new claims 32-53 maybe found generally throughout the specification and original claims. In addition, support for new claims 32-53 maybe found in present specification at page 3, line 19 to page 4, line 24; page 6, lines 1-5; page 9 lines 1-10; and page 10, lines 5-15.

Claims 1-31 have been cancelled without prejudice or disclaimer and maybe the subject of a future application.

Claim 24 was objected to for allegedly being improper dependent claim. Claim 24 has been canceled. Accordingly, applicants respectfully request that the objection be withdrawn.

Claims 14-17, 20-23, 25, 27-28 are rejected under 35 U.S.C. 112, first paragraph, for allegedly not satisfying the enablement requirement.

Imposing the rejection the outstanding official action contends that the present disclosure does not enable a method for preventing infections using the carbohydrate of formula 1, or a composition further comprising active agents and ingredients.

The new claims have been drafted so that the terms "preventing", "active agents", and "ingredients" are no longer recited.

Applicants understand that the term "preventing" is broadly construed by the Patent Office as the recited condition or disorder would never occur again. In this regard, the term "prevention" has been canceled from the claims. However, applicants do not disclaim subject matter such as the type of patient which can be treated.

Furthermore, while the terms "active agents" and "ingredients" have been canceled, applicants does not disclaim adding additional ingredients to the carbohydrates of the claimed invention. The specification makes it clear that additional ingredients such as drugs can combined with the carbohydrates recited in the claims (e.g., see examples set forth in the present specification).

In view of the above, applicants respectfully request that the enablement rejection be withdrawn.

Claims 14-17 and 20-31 were rejected under 35 U.S.C 112, second paragraph, for allegedly being indefinite. Applicants respectfully submit that the present amendment overcomes this rejection.

Claims 14-17 and 20-31 have been canceled. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Claim 24 and 31 were provisionally rejected on the grounds of non statutory obviousness- type double patenting as allegedly being unpatentable over claims 1, 3-7, and 12-13 of copending Application No. 10/148,193. This rejection is traversed.

Claims 1, 3-7 and 12-13 of United States Patent Application No. 10/148,193 are directed to an oligosaccharide mixture. The oligosaccharides mixture makes it very clear that the oligosaccharides are obtained from animal milk and have a very specific ratio of neutral oligosaccharides to acidic oligosaccharides.

The claimed invention neither recites that the carbohydrates set forth in the claimed invention are obtained from animal milk nor does the claimed

invention recite the specific ratio required by the claims of United States Patent Application 10/148,193.

Furthermore, the official action fails to explain why either of these differences would be obvious. In view of the above, applicants respectfully request that the double patenting rejection is improper as a matter of law.

Claims 24 and 31 were rejected on the grounds of non statutory obviousness-type double patenting as allegedly being unpatentable over claims 1-10 of United States Patent No. 6576251.

United States Patent No. 6576251 is directed to a carbohydrate mixture. The carbohydrate mixture recites the presence of monosaccharides, saccharides, oligosaccharides, and polysaccharides in varying amounts and ratios.

None of the claims set forth in the present application disclose or suggest such features. Once again, the official action fails explain how the claims of the present application would be obvious in view of United States Patent Application No. 6576251 in light of these differences.

Indeed, the question is not whether the claimed invention is capable of being used or employed in the composition set forth in United States Patent No. 6576251. Rather, the question is whether the claimed invention is obvious in view of the claims of United States Patent No. 6576251. In that the claims of the present application did not recite the features discussed above, the claims plainly are not obvious in view of the claims of United States Patent No. 6576251.

In view of the above, applicants respectfully request that the rejection be withdrawn.

Claims 29 and 31 were rejected under 35 U.S.C 102 (b) allegedly being anticipated by Gilbert et al. this rejection traverse.

As noted above, claims 29 and 31 have been canceled. Applicants respectfully request that the rejection be withdrawn.

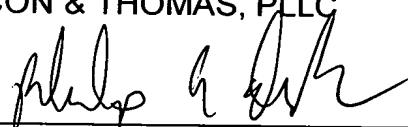
Appl. No. 10/502,049
Amendment dated: May 18, 2009
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Claims 14-17 and 20-31 were rejected under 35 U.S.C. 103 (a) for allegedly being unpatentable over Gilbert et al. This rejection is traverse.

Gilbert el al. fails to disclose or suggest a method for treating infections and a human or animal patient by administering a carbohydrate as recited in the claimed invention, where in the carbohydrates are in a form so that the carbohydrates adhere to a pathogen as recited in the pending claims. In view of the above, applicants respectfully request rejection be withdrawn.

Applicants believe that the present application is in condition for allowance at the time for the next official action.

Respectfully submitted,
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